

# Strategy Research Project

## The Relevance of the Army Reserve in Support of the Homeland

by

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# USAWC STRATEGY RESEARCH PROJECT

## **The Relevance of the Army Reserve in Support of the Homeland**

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## **Abstract**

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## **The Relevance of the Army Reserve in Support of the Homeland**

The National Defense Authorization Act (NDAA) for Fiscal Year 2012 now authorizes the United States Army Reserve (USAR) to be involuntary mobilized and deployed for defense support to civil authorities (DSCA) missions. According to Major General Luis R. Visot, Deputy Commanding General of Army Reserve Operations, “This change in legislation will have a tremendous impact on our Nation’s emergency relief efforts, as Army Reserve units represent a majority of the Army’s relief capabilities.”<sup>1</sup> This new law allows Army Reserve units to provide disaster relief at the local community, tribal and state levels, and gives the USAR the ability to respond to requests for disaster assistance from state Governors and the President.

The Army Reserve will now be an important piece of the overall Department of Defense (DoD) plans for DSCA response operations. It will also be a key element in the Army’s multi-component tiered response force, which will have to coordinate with the active Army and the Army National Guard to ensure all three components work as a fully integrated team. This is an ideal mission for the USAR because the active Army and the National Guard cannot do it alone. Many Army Reserve units have unique capabilities such as chemical, biological radiological, nuclear and high yield explosive (CBRNE) response assets that can be critical to a DSCA response. Other Army Reserve capabilities include search and rescue, aviation lift assets, engineer, transportation, civil affairs, logistics and medical units. Add this to the myriad of professional and civilian acquired skills that Army Reserve Soldiers bring to a disaster response, and there can be no question that the USAR will be a key partner in assisting the Nation in a time of need.

It is critical that Army Reserve units and Soldiers be prepared to quickly respond to natural disaster and other emergency situations when requested to do so. Outside of extreme or immediate emergency conditions, the USAR faces challenges in training, equipping, and rapidly mobilizing and deploying its forces to conduct an efficient, timely and relevant response. This paper will analyze some of these challenges and offer recommendations to ensure the USAR remains relevant for DSCA missions by suggesting the USAR can conduct disaster recovery operations in support of local authorities. The paper begins with a discussion of the legal restrictions imposed on the military's Reserve components prior to the passing of the 2012 NDAA and the impact they had on the DoD's ability to respond. It then discusses the processes that state Governors and the United States Congress went through to change the law to allow the reserve components to be accessed for emergency and disaster response. This discussion is followed by an overview of the response authorities that the DoD, including the Army Reserve, must fall under as part of a tiered federal and military response as outlined in the National Response Framework (NRF).

Although the National Guard should remain first in line for a military disaster response, the Army Reserves can be relevant in its new DSCA mission by becoming more efficient at rapidly alerting, mobilizing and deploying to a no notice disaster or emergency event such as an earthquake, tornado or terrorist incident. Facilitated by Army Reserve Emergency Response Preparedness Officers (EPLO), Army Reserve unit commanders must develop and maintain personal and professional working relationships with the National Guard Standing Joint Forces Headquarters (SJFHQ) and emergency managers to integrate their units and capabilities into all-hazard response

plans at every level of government. As part of these plans, the USAR should identify those unique resources it can provide to fill critical response and recovery capability gaps. Once the gaps are identified, the USAR should work in concert with the Federal Emergency Management Agency (FEMA) and United States Northern Command (U.S. NORTHCOM) to develop pre-scripted mission assignments (PSMA) to improve USAR unit response times to more common types of disaster needs. In addition to working with U.S. NORTHCOM on PSMA's, the USAR should consider procuring billets for senior Army Reserve Officers and Non-Commissioned Officers (NCOs) to integrate and work within U.S. NORTHCOM's J36 Domestic Operations (DOMOPS) Directorate. Developing such a close working relationships will provide a deep understanding of the Army Reserve's unique capabilities, character, strengths and limitations in disaster response. The paper concludes by confirming that the legislation passed in the FY2012 NDAA is beneficial to the Nation and DoD in allowing the USAR to be utilized for DSCA missions. This is because Army Reserve units can provide the operational capabilities and the strategic depth needed to meet U.S. defense requirements across a full spectrum of contingencies including disaster response. The passing of the FY2012 NDAA also nests with the strategic priorities noted in several Department of Defense Directives, as well as being outlined in President Obama's *Strategic Priorities for 21<sup>st</sup> Century Defense*.

### Restrictions Imposed on the Army Reserve

Prior to 2011, as specified under United States Code, Title 10 672(d) precluded the use of Army Reserve unit capabilities in a domestic response incident short of a chemical, biological, radiological, nuclear, high yield explosive (CBRNE) event. This restriction severely affected the Department of Defense's ability to provide a wide range

of resources within its complete inventory of capabilities. The unique capabilities of the Army Reserve, with most of its structure in theater-level sustainment and logistics capabilities, would be in high demand especially in catastrophic disaster recovery efforts. DoD is an essential and responsible partner in support of the homeland, and when requested by the authorities it should not be restrictive in providing these capabilities.

Congress recognized this shortfall, and with the successful passing of the 2012 National Defense Authorization Act (NDAA), the Army Reserve units under involuntary call-up status are now able to respond more efficiently to natural or manmade disasters. This much needed change in legislation, however, comes with a greater need to coordinate these capabilities with other Federal, State, local and military service component partners, especially the National Guard. The approved NDAA provides the opportunity for all military service component partners to foster relationships and tie coordination efforts through planning.

When natural or manmade disasters occur, causing significant damage and suffering, it is irrelevant to the citizens affected by the disaster which military component is responding to their needs. The complete effort of all the Services active, National Guard or Reserves, may be necessary to meet all needs. What matters to citizens is receiving the right type of support requested by the emergency management authority at the right time and delivered promptly to the right place. However, prior to the NDAA, the Army Reserve was restricted from providing assistance with complete units and could only support with those who chose to volunteer.<sup>2</sup>

Although the changes in the 2012 National Defense Authorization Act authorize an involuntary mobilization, the Army Reserve will most likely never be the first military responder. They will be part of a tiered military response that starts with the National Guard. The National Guard is the Governor's first line of military response and works under their command and control. The Guard is ideally structured, trained and postured to provide units and specialists to the state to protect life and property, and preserve peace, order, and public safety. The Governor requests National Guard assistance when a situation is beyond the capacity of local, tribal, or state government to control, when all civil resources have been exhausted or, resources are not available from commercial sources. Additionally, a Governor can call upon the National Guard when there is a loss of vital public services or there is an immediate, evident and substantial threat to public health, safety or welfare.

Once the Governor requests federal military forces, they do not come to take over, but come as part of a tiered response to assist the state in Defense Support to Civil Authorities (DSCA) operations. The National Response Framework (NRF)<sup>3</sup> outlines the whole process of government emergency disaster response, beginning with the local authorities. It is intended to ensure that government executives, leaders of private sector and Non-Governmental Organizations (NGOs), and emergency management specialists across the Nation understand domestic incident response roles, responsibilities, and relationships in order to respond more effectively. Additionally, the NRF describes special circumstances in which the federal government can exercise a larger role, including incidents where federal interests are involved and catastrophic incidents where a state's capabilities would be immediately overwhelmed, requiring

significant federal support. The NRF outlines specific authorities and best practices for managing incidents that range from the serious but purely local, to large-scale terrorist attacks or catastrophic natural disasters.<sup>4</sup>

Even though the National Guard is under state jurisdiction and can be called by the Governor to assist during state disasters or other emergencies, the local authorities almost always remain in charge of an incident. During a response, National Guard soldiers remain under the charge of their military chain of command, conduct all their missions in accordance with the needs of the state and within the guidelines of state laws and statutes, and stand down once the protection of life and property, and preservation of peace, order, and public safety is deemed restored.

The National Guard will always be the state's first line of military response. Because the Guard is embedded in the local community, is well trained and structured for disaster response, and has developed and maintained relationships with state and local emergency managers. According to the Federal Emergency Management Agency, (FEMA) the National Guard can typically respond within 12 to 24 hours.”<sup>5</sup> Although response timeframes depend on multiple factors, such as, the size of the state, the location of the National Guard units, and transportation requirement and assets. The response time for federal military forces, on the other hand, can be much longer. For example, on September 5, 2005, after Hurricane Katrina devastated the Gulf Coast, the DoD mobilized the U.S. Army's 14th Combat Support Hospital (CSH) to provide a medical capability as a part of Joint Task Force Katrina. The 14th CSH was operational on September 11th, after most victims of the flooding had already been evacuated, so this capacity was mostly employed to tend to the injuries suffered by the responders.<sup>6</sup>

With proximity to the incident it is much easier to integrate National Guard support and resources in response and recovery efforts, than that of the federal military. When a state municipality or county activates their emergency operations center (EOC), it typically notifies the state emergency manager. The state emergency manager in turn passes a situation report to the National Guard Joint Force Headquarters (JFHQ) notifying them of the situation and whether or not National Guard units will be required to assist civilian responders. The state's Adjutant General or a designated representative, may deploy a liaison team or, in states with a higher frequency of disasters, may permanently assign a National Guard officer to the EOC to assess and monitor the situation. At the EOC, these officers and liaison teams assist in situations that are unclear and have the potential to require additional resources. If the Adjutant General anticipates local authorities needing additional assistance, the joint force deploys additional teams. The integration of the Guard is much smoother than that of the federal military because of experience gained from responding to multiple real-world state emergencies, training and exercising with local emergency authorities, and developing and maintaining important professional and personal relationships with state emergency managers

There are many great examples of how fully integrated the National Guard has become in supporting state civil authorities. Massive blizzard conditions on the east coast in February 2011 affected a third of the country. Six Governors declared a state of emergency. Approximately 1,100 National Guard members from 11 states were activated or placed on standby.<sup>7</sup> Twenty-four hours after Missouri Governor Jay Nixon declared a state of emergency, the Missouri National Guard called up more than 600

soldiers and airmen to conduct emergency missions and assist their fellow citizens throughout the state.<sup>8</sup> Active duty or Reserve forces, unless under extreme life saving conditions, do not have the authority to respond until a formal request is made through a coordinated agreement between the State Coordinating Officer (SCO) and the Federal Coordinating Officer (FCO). Even if their duty station is within the state, turnover of personnel due to overseas deployments or changes of duty station can lessen the ability to build long-term relationships.

The time it takes to respond and the jurisdictional authority needed to have an integrated military and civilian response are just a few reasons why the National Guard is and will remain the state's first military responder. Additionally, our Constitutional framework and the Tenth Amendment require that state resources be used first. The Tenth Amendment to the Constitution reserved all powers to the States that the States did not surrender to the Federal Government.<sup>9</sup> For example, the states have the power to establish schools and supervise education, to regulate intrastate commerce, and to create local sub-governmental units. States also have broad police powers to protect and promote the general welfare, health, safety, and public order of its residents. Under the Tenth Amendment, each State has the primary responsibility to prepare for and respond to disasters and emergencies within its borders. As a general rule, the Federal Government and, therefore, DoD, is not the immediate first responder. If, in the exercise of police powers, a State is overwhelmed by the severity and magnitude of a disaster or emergency, the Governor can request assistance from the Federal Government. When the time comes for DoD to participate as part of the federal response, it must do so under proper authority.



The three main authorities by which federal military forces can respond to emergencies are the Disaster Relief Act of 1974 known as the “Stafford Act”, the Economy Act of 1932, and Immediate Response Authority (IRA). The Stafford Act<sup>10</sup> (42 USC 5121) is a law that was set up to provide an orderly means of federal disaster assistance for state and local governments in carrying out their responsibilities to aid citizens. The limits are set by state law and by the authority of the Governor. Following an incident, the President may sign a Stafford Act declaration directing federal resources (funding, agencies, and personnel) to provide assistance to a state. The declaration may be requested prior to predicted incidents such as a hurricane, or after severe incidents such as an earthquake. In a catastrophic incident, these steps may be expedited.

The Economy Act<sup>11</sup> (31 USC 1535) is a law that allows the DoD to provide emergency or disaster assistance to another federal agency on a reimbursable basis. The Minnesota I-35 bridge collapse in 2007 was an example of an Economy Act operation. During this incident, instead of the state requesting DoD assistance, the U.S. Department of Transportation (DOT), under its jurisdictional authority for the management of the Interstate system, requested DoD assistance for recovery and support through a process beginning with the local responders through the City of Minneapolis’ Office of Emergency Management. The Secretary of Defense directed U.S. Navy salvage divers to assist in the recovery of victims beneath the bridge wreckage.<sup>12</sup> Once the mission was completed, the DOT reimbursed the DoD under the Economy Act authority for the Navy salvage dive unit in support of the incident commander.

In an instance where time does not permit prior approval from their higher headquarters, or in the absence of a Stafford Act declaration, DoD Directive (DoDD) 3025.15 allows federal military commanders to respond to emergency requests from local officials under what is known as immediate response authority (IRA). IRA states, “In imminently serious conditions and upon request from local authorities federal military forces may provide support to save lives, prevent human suffering or mitigate great property damage.”<sup>13</sup> A recent example where immediate response authority was used was in the summer of 2012 during the Colorado Springs, Colorado, Waldo Canyon Fire, which burned for over 19 days, destroyed over 340 homes and blackened over 18,000 acres.<sup>14</sup> During the early stages of the massive fire, El Paso County Emergency Management officials asked the Commander of Fort Carson for assistance. He responded by sending more than 120 Soldiers, 10 bulldozers and other equipment to assist in the fire containment operations.<sup>15</sup>

The difference between the Active and Reserve forces under the Stafford and Economy Acts is that “neither one provides inherent authority to activate the Reserve.”<sup>16</sup> Additionally, prior to the 2012 NDAA, the law specifically did not allow the President of the United States to involuntarily recall the Reserve Component. 10 USC 12304 stated “no unit or member of the Reserves could be involuntarily ordered to active duty to provide assistance to either the federal government or a state in time of a serious natural or manmade disaster, accident, or catastrophe.”<sup>17</sup> There are a couple of notable exceptions. First, in the instance where a natural or manmade disaster was so severe in scope and complexity that it threatened or caused a national security emergency, 10 USC 12302(a) provides that a partial mobilization of the Reserve component can be

conducted. It allows the President to mobilize up to one million Reserve Component personnel for not more than 24 months. An example would be severe damage to a nuclear power facility. In this scenario, the President could declare both a major disaster and a national emergency that called for the partial mobilization of the Reserves. Similarly, if a catastrophic national disaster were to occur in time of war when the bulk of the military forces were deployed outside the United States, or if Congress declared a national emergency, the President would be authorized to use the full mobilization provisions found in 10 USC 12301(a) to call up an unlimited number of Reservists for the duration of the war or national emergency, plus 6 months.

Second, 10 USC 12301(b) gave the President limited authority to activate the Reserves for no more than 15 days a year. This has primarily been used to conduct Annual Training, but it did not explicitly limit the days to training. There is nothing in the statute that excludes natural disaster response from the realm of possible missions. Therefore, the Reserve could be involuntarily ordered to active duty for disaster response provided the unit or individual has not already expended their 15 days for Annual Training. The central purpose of the 10 USC 12301(b) was to grant the President the authority, with the state Governor's consent, to "mobilize the National Guard to augment operational forces during periods of rising tensions such as to put down a rebellion or to control domestic violence."<sup>18</sup> Historically, 10 USC 12301(b) and 10 USC 12302(a) have only been used in times of war or for training, not disaster response.

Despite the restrictions described above, there are several instances where Army and other Reserve Component members deployed in response to disasters. Most

notably are the deployments of Reserve Component Emergency Response Preparedness Officers (EPLO). In 2001, Department of Defense Directive (DoDD) 3025.16 established a DOD policy that authorized Reserve Army, Navy and Air Force officers and non-commissioned officers to serve as liaisons with active military, National Guard and civilian emergency responders.<sup>19</sup> EPLOs are assigned to work closely with the Defense Coordinating Officers (DCO). DCOs and their small staff of Soldiers and civilians are located in each of the 10 FEMA regions to coordinate Defense Support to Civil Authorities (DSCA) missions. Reserve Component EPLOs are assigned in each of the 50 states as well as DC, Guam, Puerto Rico and the Virgin Islands. There is a minimum of one representative from the Army, Navy and Air Force Reserve. At the Regional level, EPLOs are aligned with each of the 10 FEMA regions. The EPLOs are charged with becoming familiar with local and state emergency response plans. When requested by the DCO and deployed during emergencies, they advise their respective states and regions on the capabilities of their respective Services. Reserve EPLOS have been activated and deployed to emergencies on numerous occasions including the Waldo Canyon Fire in Colorado mentioned above.<sup>20</sup>

In addition to the EPLOs, traditional Army Reservists have been activated and deployed prior to the 2012 NDAA. Most notably, after the 9/11 attacks on the Pentagon and World Trade Center, thousands of trained and ready Army Reserve men and women came forward, first as volunteers and then in response to the partial mobilization ordered by the President on 14 September, just three days after the attacks.<sup>21</sup> Specifically, Soldiers from the of the 311th Quartermaster Company (Mortuary Affairs) from Aguadilla, Puerto Rico, were among the first Army Reserve Soldiers to volunteer

and begin disaster response operations. Just 72 hours after the call went out, the 311<sup>th</sup> Soldiers were searching through debris at the Pentagon for the remains of victims.<sup>22</sup>

There was a major drawback for those individual Reserve members who did volunteer. The 1994 Uniformed Services Employment and Reemployment Rights Act (USERRA)<sup>23</sup> protected service members' reemployment rights when returning from a period of service in the uniformed services, including the Reserves or National Guard. The Act prohibited employer discrimination based on military service or obligation, but only covered Reserve or National Guard members when they were involuntarily called into service. This meant that for those Reservists who volunteered to leave their civilian jobs to put on their military uniform and come to the aid of disaster victims, there was no guarantee that when their disaster relief mission was over, they would still have their civilian jobs to return to.<sup>24</sup>

### Relevancy Drives Change

Even with these authorities and examples, the restriction in 10 USC 12304 on involuntarily activating and deploying Reserve Component units remained.<sup>25</sup> The restriction that prohibited Reserve units from helping their fellow citizens and communities affected by anything short of a catastrophic disaster was a source of frustration for Army Reserve Commanders.<sup>26</sup> Since Army Reserve units have been mobilized and deployed several times to support contingencies overseas, Commanders called for them to help their fellow citizens here at home. Former Chief of the Army Reserve (CAR) Lieutenant General Jack Stultz stated that when disasters struck, "in many cases there were Reserve Component units that were close at hand with the capabilities needed, but didn't have the authority to act."<sup>27</sup> It was extremely frustrating

that because they operate under federal authority and not state authority, the Reserves could not help their fellow Americans in a time of need.

The guidance on how Army Reserve units operate in disaster response was also a constraint. Paragraph 6-16 of Army Field Manual 3-07 *Stability Operations and Support Operations* started by assertively describing the extensive amount of resources available in the Army Reserve stating: “The US Army Reserves is capable of extensive domestic support operations. This assistance and support may include the use of equipment and other resources, including units and individuals.”<sup>28</sup> It then placed restrictions and limits on their activation by stating, “US Army Reserve personnel may be activated in a volunteer status when ordered to active duty in lieu of annual training or after the President has declared a national emergency. Use of Army Reserve persons and units is restricted, under law, to immediate response under provisions found in Department of Defense Directives (DODD) 3025.1.”<sup>29</sup> Finally, it limited the Army Reserve response “to population and resource control in the event of a Chemical, Biological, Radiological, Nuclear and High Yield Explosive (CBRNE) incident,”<sup>30</sup> and failed to explain other available options.

One of the options not explained was the Army Reserve’s contribution to what is known as the CBRNE Response Enterprise, which is basically a construct and process that integrates local, state, regional, federal and military plans and units that are assigned the mission of responding to catastrophic CBRNE events involving a terrorist attack or the use of weapons of mass destruction. The Army Reserves is part of the federalized military response and contributes to this enterprise by providing theater aviation commands, medical brigades and hospitals, mortuary affairs detachments,

consequence management units, movement and control detachments, fire fighting units and chemical and biological detection units.<sup>31</sup> These units are uniquely sourced by the Army Reserve and are assigned to the CBRNE Response Enterprise mission for three years, after which other Army Reserve units pick up the mission.<sup>32</sup>

Another limitation to Reserve Commanders was the guidance provided to them regarding their immediate response authority (IRA) outlined in Department of Defense Directive (DoDD) 3025.18. As discussed above, when time does not allow approval from a higher headquarters, immediate response authority allows USAR commanders to take "immediate and necessary action in response to requests from civil authorities."<sup>33</sup> Requests could include search and rescue, evacuation, emergency medical treatment, and emergency restoration of essential public services. However, without further orders, their response was generally limited to 72 hours or less.

The inability to utilize the Reserve units in disaster response was not only noted by Reserve Commanders but by Active Component commanders and other federal agencies as well. For example, in the after-action reports about the military relief efforts following Hurricane Andrew in 1992, the Commander in Chief of U.S. Forces Command recommended the President be given statutory authority to order Reservists to active duty for disaster response.<sup>34</sup> Additionally, the General Accounting Office (GAO), in its July 1993 report titled "Disaster Management: Improving the Nation's Response to Catastrophic Disasters," recommended removal of "statutory restrictions on DoD's authority to activate Reserve units for catastrophic disaster relief."<sup>35</sup> The report also stated that the ability to use the Reserves would lessen the impact of using the active military forces for disaster relief on its primary mission of defense of national security.

In the aftermath of the September 11 attacks, “debate over how to use the Reserve Component in homeland defense and civil support took on renewed urgency.”<sup>36</sup> In June 2005, the Strategy for Homeland Defense and Civil Support noted, “Homeland defense and Civil Support are total force responsibilities and the nation needs to focus on better utilizing the competencies of the Reserve components.”<sup>37</sup> The strategy outlined many areas where the Reserves could aid in protection of the homeland and disaster response, but it again did not address how the Reserve Component could be called up. In 2005, after the federal response to Hurricane Katrina, President Bush called upon the Department of Defense to expand its role in disaster response stating, “It is now clear that a challenge on this scale requires a broader role for the armed forces – the institution of our government most capable of massive logistical operations on a moment’s notice.”<sup>38</sup>

Finally, in 2010, a Rand Corporation study recommended, “that the Secretary of Defense coordinate with the Council of Governors to identify Title 10 Reserve Component assets in their states that may be beneficial in responding to the full range of natural or manmade incidents, and report these findings to congress”<sup>39</sup>

Until the 2012 NDAA adopted the Dual Status Commander concept, Governors continued to cite the Tenth Amendment and the Constitutional framework in their opinions on how the Reserves would be called up. The restrictions concerning Army Reserve unit employment guidance to disaster response and, the lingering problem with Reserve Soldier reemployment rights, a process of proposing changes to the law was necessary. It began with the fiscal year 2007 National Defense Authorization (FY07 NDAA) legislative process, when an attempt was made to address the lack of authority



to mobilize the Reserves.<sup>40</sup> It included adding new language to 10 USC 12304 that would have permitted the President to mobilize the Reserves for any disaster response. Congress rejected the proposed changes however, not because the language permitted the Reserves to be made available for disasters, but because the approved provision would permit the possibility of the states' National Guard to be federalized without the Governor's consent.<sup>41</sup> The possibility of federalization, even during a time of a state emergency, was not acceptable to Governors who feared losing their authority to employ their national guard.

As an example of state Governors applying the Tenth Amendment and the constitutional framework discussed above, after the House passed the FY07 NDAA without the changes, a letter endorsed by all 50 state Governors was sent to the House Armed Services Committee. The letter again conveyed the point that any further attempt to expand the President's authority to federalize the National Guard would be met with heavy resistance. The letter continued with, "We [the State Governors] are responsible for the safety and welfare of our citizens and are in the best position to coordinate all resources to prepare for, respond to and recover from disasters. When federal aid is needed it will be requested and coordinated by the governors."<sup>42</sup>

Another attempt to revise 10 USC 12304 was made during the FY09 NDAA process. The Governors again turned it down, this time because there was an issue over their ability to command and control all the forces in the disaster area. Although the availability of Reserve forces, equipment and resources to assist in disasters was welcomed, they felt that having two chains of command, one for National Guard Forces and one for federal forces would disrupt the unity of effort in the disaster response.

A letter dated 10 July 2008 from Governor Easley of North Carolina and Governor Sanford of South Carolina to the House Armed Service Committee stated that “the issue of a Governor’s authority over all forces during a domestic emergency or disaster must be resolved before changes to 10 USC 12304 can be made.”<sup>43</sup>

The disagreement was finally overcome in the FY2012 NDAA with the adaptation of the Dual Status Commander concept. This concept allows the President of the United States to order a state Army National Guard commander to Active Duty Title 10 status. In turn, the Governor of the affected State authorizes the same National Guard officer to retain Title 32 authority. Both the state Governor and the President must agree on the decision to implement a dual status commander. When this happens, both State and Federal forces are placed under the command and control of this single commander who reports to both the state Governor and the supported combatant commander, with the dual status commander effectively serving as the link between the two chains of command. With the consent of the Governor of the affected state, the President could also appoint an Active Duty Title 10 officer to be a dual status commander. The overall intent of the concept is to achieve greater unity of effort between the Title 10 and Title 32 forces responding to a disaster, allowing them to better focus on saving lives, preventing human suffering, and mitigating great property damage. Further, the FY2012 NDAA stated “When active military and National Guard forces are employed simultaneously in support of civil authorities, the appointment of a dual status commander should be the “usual and customary” command and control arrangement for missions involving a major emergency or disaster.”<sup>44</sup>

The NDAA also gives the President more flexibility to provide necessary assistance to the American public because it authorizes him or her access to the Reserve component. The flexibility to access the USAR provides a valuable resource in defense support to civil authorities (DSCA) missions. Over 10 years of war, the USAR has been successful in mobilizing and deploying men and women who put their civilian lives on hold, to support deployed commanders in Iraq and Afghanistan, thus demonstrating that the USAR has the ability to make a difference overseas. In times of an emergency, these ‘Warrior-Citizens’ with their unique capabilities and skill sets are now available to assist their fellow Americans at home. The USAR Warrior-Citizens make up a community-based force of over 207,000 Soldiers.<sup>45</sup> There is vast potential in these teachers, coaches, law enforcement officers, business leaders, college students and others to serve the nation during times of disaster. People who live and work in thousands of communities across the country, and who bring their civilian skills with them to the USAR, will be able to provide outstanding support to their nation and communities in times of emergency.

#### Ensuring Efficient Response

The vision of the former Chief of the Army Reserve (CAR) Lieutenant General Jack Stultz, was to ensure that the (USAR) becomes a key response asset to meet the needs of the community in the time of disaster. He stated, “when the nation requires support, Army Reserve Soldiers can provide immediate assistance and service to their neighbors and fellow citizens during a national crisis. The Army Reserve can and should provide this support.”<sup>46</sup>

With the approved 2012 Defense Authorization Act, the Army Reserve, with its new authority to respond, was able to provide support as part of a combined military

effort for the victims of Super Storm Sandy. For example, as many as 45 Army Reserve Emergency Preparedness Officers (EPLO) provided advice and guidance to civil authorities on the resources, capabilities and employment of active and Reserve Department of Defense assets. Two Army Reserve helicopters and crews from Fort Bragg, North Carolina, provided support to the U.S. Northern Command and Joint Task Force-Civil Support commanders by flying three missions to survey the flood damage.<sup>47</sup> Army Reserve Centers from around the impacted area, such as the Breezy Point Army Reserve Center in New York and the Fort Wadsworth Army Reserve Center in Staten Island, were made available and used by agencies like FEMA and the American Red Cross.

The 99th Regional Support Command (RSC), located at Joint Base McGuire-Dix-Lakehurst near Trenton, New Jersey, sent three Quartermaster units.<sup>48</sup> First to arrive was the 401st Quartermaster Team from Lock Haven, Pennsylvania equipped with 600 gallon-per-minute fuel pumps converted to help drain water. They pumped approximately 7 feet of water out of Long Beach High School, and a significant amount of floodwater from the Long Beach Recreation Center and Long Beach Development Center on Staten Island.<sup>49</sup> The other two Quartermaster Teams, the 410<sup>th</sup> from Jacksonville Florida, and the 431<sup>st</sup>, a resourceful unit from Kinston, North Carolina, provided water-pumping capabilities at various flooded locations around New York City.

There is no question the Army Reserve has the resources and capabilities to provide outstanding support. However, Super Storm Sandy was a known event, meaning the country knew it was coming. The storm developed as a tropical depression in the Caribbean on the 19<sup>th</sup> of October and made landfall in the United States near

Atlantic City, New Jersey, at approximately 8PM EDT on the 29<sup>th</sup> of October.<sup>50</sup> Weather forecasters and hurricane models gave the Army Reserve plenty of notice to prepare. However, without such prior notification, the USAR may not be able to respond as well to a no-notice disaster such as an earthquake, terrorist event or tornado. In order to be relevant in disaster response, the USAR has to be prepared to provide large-scale support within hours, not days because it is during these first few hours that many important activities such as saving lives, preventing human suffering and mitigating great property damage must happen. Super Storm Sandy response was a great first effort for the Army Reserve. In fact, the USAR should embrace DSCA, particularly with regard to recovery to something like Super Storm Sandy, as a central mission that it should plan, program and budget. The USAR should shift its focus on the recovery aspect of DSCA due to the many challenges in eliminating the response time burden to a no notice event. This will require planning, equipping, training and prior coordination.

### Challenges to a Timely USAR Response

There will always be a need for defense support to civil authority (DSCA) missions requiring various levels of response. The Army Reserve is well suited to provide support, however it is not yet clear it can be mobilized rapidly or effectively. As discussed, for most states the largest asset available to respond is the State's National Guard. However, looking beyond the National Guard, there is a wide range of capabilities resident in the USAR that would be useful in responding to a catastrophic event. According to Army Field Manual 100-19 *Domestic Operations*, "most domestic support operations are logistical in nature"<sup>51</sup> and the Army Reserve possess the majority of the Army's total combat service and combat service support logistical enablers.<sup>52</sup> However, the process of deploying only the active Army assets is fairly extensive. When

active military forces are requested the process begins with a request for assistance (RFA) from the effected state's Governor through the designated State Coordinating Officer (FCO). The SCO then coordinates with the lead federal agency, in most cases FEMA, Federal Coordinating Officer (FCO), who in turn coordinates with the Defense Coordinating Officer (DCO). The DCO validates the RFA and submits the request, through United States Northern Command (NORTHCOM) and the Joint Staff, to the Secretary of Defense for approval. The approved requests become what are known as mission assignments (MA) and are sourced to the various Services.

Army requests are passed to US Forces Command (FORSCOM) for sourcing. Once active Army forces are on scene and additional forces are required, the RFA process can be expedited in the event of a request for a life saving mission. However, for a no-notice event, the soonest federal military forces can arrive is usually within three days. The process is the same for the USAR, but Army Reserve requirements are passed from FORSCOM to US Army Reserve Command (USARC) for sourcing. Once the request reaches the USAR, challenges to a timely response emerge. For example, there is a need to standardize a process by which USAR Soldiers and units can be placed on orders to provide disaster relief expeditiously.

Unlike the active Army, USAR Soldiers are not full-time members of the military. They live and work in their local communities and often require proper documentation (orders), which they need to provide to their employers in order to be released from their civilian jobs and still have it available to them when their mission is complete. Even though USAR units are now available to respond to a disaster under the 2012 NDAA, another delay in the process becomes apparent. In many cases, Reserve unit

commanders and Soldiers are not co-located with the equipment they need. Some may not live or work in the same location or even be the same state in which they perform their Reserve duties. The inability to access their equipment quickly due to the potential travel constraints a natural or manmade disaster may cause, could further delay the USAR's ability for a timely response.

Another potential limitation to a timely USAR unit response is the individual medical readiness of its Soldiers. Prior to any type of deployment, Soldiers are required to be in compliance with the Army's medical readiness standards. If they are not, they must go through Soldier Readiness Processing (SRP). The SRP is a program within the United States Army, including the USAR and National Guard, to medically qualify soldiers for pending deployments. Army Regulation 600-8-101 states, "An SRP check will be performed annually on USAR soldiers, whenever they serve on active duty or within 30 days before an actual unit deployment date."<sup>53</sup> The SRP consists of several different examinations, evaluations, and interviews and may take as few as two hours or as long as eight hours, depending on the information and advanced specialized testing that an individual soldier may require. If USAR units and Soldiers are required on short notice for an emergency response, coordinating for, setting up and performing an SRP to get them medically compliant to perform their mission could significantly delay their response time.

Along with Soldier readiness, equipment readiness is another constraint to an expeditious USAR response. The Army Reserve has a "significant amount of older equipment"<sup>54</sup> because much of the equipment in the Army Reserve has been received by cascading older equipment to the Army Reserve as new equipment was fielded to

the Active Component. Thus, USAR equipment usually is near or past its planned service life.<sup>55</sup> While this was more suitable for a peacetime strategic reserve, it assumed greater risks in the readiness of USAR units and does not support the operational concepts discussed above. According to the FY2012 National Guard and Reserve Equipment Report, "The Army's modernization efforts have significantly improved Army Reserve equipment, however, the Army Reserve continues to have items, such as construction equipment, material handling equipment, and tactical wheeled vehicles that exceed economic useful life and are not programmed to be modernized for many years."<sup>56</sup> These older items increase the USAR's operational and sustainment costs and could result in a decrease in its ability to respond efficiently and effectively to an emergency request.

In addition to the Soldier and equipment readiness limitations, USAR Commanders and Soldiers generally lack an understanding of what their roles, responsibilities, authorities and limitations are in a Defense Support to Civil Authorities (DSCA) environment. The recent changes in the FY2012 NDAA make DCSA missions new to most USAR units. Prior to responding to an emergency disaster response, Commanders at all levels in the USAR need to have a working knowledge of the command and control relationships of DSCA. USAR unit Commanders must understand that during a DSCA response, command runs from the President to the Secretary of Defense to the commander of the combatant command to the DOD on-scene commander. Additionally, military forces will always remain under the operational and administrative control of military chain of command. These forces are subject to redirection or recall at any time and do not operate under the command of the Incident



Commander, local or state authorities.<sup>57</sup> USAR unit commanders also need to recognize that there are various legal aspects of DSCA and failure to follow the law or to ignore, discount, or circumvent the law without proper authority may result in serious consequences detrimental to mission accomplishment. Additionally, USAR leaders should understand the civilian incident management process. These preparations result in a smoother integration of military support and resources in support of civilian response and recovery efforts, should they be needed. Needing to be trained and informed on these issues after the request for USAR units is made is yet another limitation for a timely response.

Understanding the regulations and nuances of a DSCA environment may be difficult for the USAR, but finding sufficient training time for a DSCA response is even more difficult. Training time and resources are limited in the USAR where units typically meet one weekend a month and two weeks a year to train for their wartime mission. USAR commanders, whose success is usually measured by their combat readiness, will have difficulty allocating time to train on things that don't contribute to it. Some USAR combat support units, such as signal companies or combat service support medical units could be assigned to disaster response with little or no additional training. Other USAR units that could assist in damage assessment or search operations would require only limited pre-deployment training. The most difficult activities that USAR units could be asked to perform are those such as finding and removing survivors from collapsed buildings, for which both training and special purpose equipment are needed.

Because of the restrictions in place prior to the 2012 NDAA, the Army Reserve, except for the EPLOs, has not placed a high priority on developing and maintaining

professional and personal relationships with state, local and tribal emergency managers. As discussed above, the National Guard, through many years of state emergency response, training, and exercise, has established these types of relationships. The Army Reserves, although embedded in their local communities, is challenged in this area. The task of cultivating and sustaining relationships that incorporate the Army Reserve into emergency response can be challenging, but the investment will yield many dividends. By building relationships, the USAR will be able to learn more about the complexity of a community, establish engagement strategies, and identify interdependencies that may reveal shortfalls in resources that the Army Reserve can fill in a time of emergency. Taking steps to establish and build relationships that incorporate Army Reserve units during normal operations before an incident occurs will also lighten the load during response and recovery efforts by identifying agencies with existing processes and resources that are available to be part of the emergency management team. Establishing relationships and partnerships that integrate the USAR in disaster response will take time, but can produce more effective and timely USAR responses to all types and sizes of threats and hazards, thereby improving security and resiliency nationwide. It has become almost a mantra in the disaster response community that you do not want to exchange business cards in a crisis, but without local USAR leaders fostering and developing essential relationships with their communities this might continue to be the case.

#### Recommendations to Enhance Relevance in DSCA

The USAR should develop, implement and train for rapid notification, mobilization and deployment procedures. The response to Super Storm Sandy was the first time USAR units were deployed in a disaster response under the 2012 NDAA. However, this

was a notice event. To be relevant in a no notice event such as a tornado or terrorist incident, USAR leaders must develop expeditious notification, mobilization and deployment procedures to ensure Army Reserve units can meet the rapid response requirements needed for such an incident. These procedures should be calculated, measured, flexible and exercised to ensure no time is wasted in getting much needed resources on scene to aid Americans in their time of need.

Second, USAR leadership should pre-identify those Army Reserve units most likely to be needed for DSCA events and work with U.S. NORTHCOM and the FEMA to craft and write pre-scripted mission assignments (PSMA) to improve Army Reserve unit response times to more common types of disaster needs. Through the use of historical data and lessons learned, pre-scripted mission assignment (PSMA) were developed by FEMA to facilitate rapid response during the initial phase of disasters and emergencies. Although a PSMA is merely a template used to craft a Mission Assignment (MA), and is not a pre-approved MA, by identifying of Army Reserve units and their capabilities most likely to be needed in disaster response written out ahead of time can facilitate a more rapid response and contribute to the overall success of the MA.

Next, USAR leadership should take steps to integrate the Army Reserve at U. S. NORTHCOM. Critical to the effectiveness of Army Reserve units in future disaster responses, as well as the USAR's role in DSCA response more broadly, is the need for a strong relationship with U.S. NORTHCOM. To facilitate the integration of the Army Reserve into U.S. NORTHCOM, USAR leadership should permanently assign a General Officer to serve as the USAR advisor to Headquarters U.S. NORTHCOM. Additionally, there should be Army Reserve EPLO officers and Non-Commissioned

officers assigned to train at the J36 DOMOPS Directorate as regular drilling reservists. Having these officers and NCO billets in the DOMOPS Directorate will, without question, develop a close working relationship and a deep understanding of the Army Reserve's unique capabilities, character, strengths and limitations in disaster response.

Fourth, Army Reserve EPLOs should be permanently assigned to the state National Guard's Standing Joint Forces Headquarters (SJFHQ). Assigning the EPLOs to the SJFHQ would facilitate the development and maintenance of relationships between USAR units located within the state with the National Guard as well as between local, state, and tribal emergency response partners. Having the EPLOs assigned to the SJFHQ would also provide situational awareness on developing or on-going emergencies and activities. Having situational awareness in emergency or disaster situations would allow the DCO and Army Reserve leadership to anticipate the potential need for USAR unit capabilities. Additionally, while assigned to the Defense Coordinating Element (DCE), Army Reserve EPLOs are tasked to provide briefings to active Army installation commanders regarding what their potential role might be in a defense support to DSCA mission. Because Army EPLOs are regular reservists, similar to the majority of Army Reserve unit commanders, they are uniquely qualified to provide DSCA briefings to local Army Reserve units on what they could be potentially asked to provide during a disaster response. EPLOs must be the conduit that enables meetings between local, state, tribal and National Guard emergency managers and Army Reserve unit commanders. Rather than the EPLOs briefing what capabilities and resources a local Army Reserve unit can bring to the disaster response, the commanders themselves should have this dialogue with the emergency managers in

their area by having the EPLOs arrange and facilitate the meeting. Successful meetings can lead to training and exercises which can then lead to better integration of USAR forces into local state and tribal response plans where they reside.

Finally, Army Reserve units and Soldiers should be trained, equipped and funded to provide disaster recovery efforts instead of response efforts. A wealth of assets and resources reside in the Army Reserves. However, outside of immediate response authority (IRA), the challenges discussed above make it difficult for USAR units to be alerted, mobilized and deployed rapidly enough to save lives, prevent human suffering and mitigate great property damage. To be relevant and more effective, the Army Reserve should focus, train and equip for recovery efforts. Recovery operations take place in areas heavily damaged by a natural or man-made event. During the time between the initial response, where immediate life-saving needs are met, public infrastructure is inoperable and, private enterprises are not yet available, Army Reserve units can be mission assigned to fill the gap. Until the local infrastructure is restored and local utilities and businesses are up and running again, USAR units can step in to provide the support necessary to sustain life in the affected area. Medical units can provide care to both victims and emergency responders and other units can conduct tasks like aviation and transportation assets to move victims, food, water, ice and fuel. Other Army Reserve units can provide specialty assistance such as mortuary operations and still others can aid in searching for survivors and conducting damage surveillance.

#### The USAR is a Key Partner in DSCA Missions

U.S. Army Reserve units have unique capabilities and are likely to be needed in times of natural disasters. Like their National Guard counterparts, USAR units are

forward deployed throughout the United States, and possess the military and civilian skills necessary for effective disaster relief and recovery. Also like the National Guard, the USAR provides a connection to the American public, as Army Reserve Centers are located in communities and cities throughout the United States. The USAR is ideally suited to provide relief and recovery support in the form of medical, transportation, supply, chemical decontamination, aviation, legal, communications, civil affairs and chaplain services to disaster victims. In fact, 26% of the total Army's combat support (CS) forces and 57% of the Army's combat service support (CSS) forces reside in the USAR.<sup>58</sup>

The language in the 2012 NDAA adds the DSCA mission to the USAR. The robust capabilities nested locally within civil communities, makes the Army Reserve a clear choice when disasters occur. The added language in the 2012 NDAA supports one of the strategic priorities outlined in President Obama's *Strategic Priorities for 21<sup>st</sup> Century Defense* where it states the United States military "will come to the assistance of domestic civil authorities in response to a very significant or even catastrophic event."<sup>59</sup> It also supports the 2010 Quadrennial Defense Review's (QDR) assertion that the military must be prepared to respond to the full range of potential natural disasters and that the military "will almost always be in a supporting role."<sup>60</sup> Finally, it backs DoD Directive 1200.17 by stating that Defense Support to Civil Authorities is a "total force mission,"<sup>61</sup> where Reserve Components provide the operational capabilities and strategic depth needed to meet U.S. defense requirements across a full spectrum of contingencies to include disaster response.

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<sup>56</sup> *Ibid.*, 2-28.

<sup>57</sup> United States Department of Homeland Security, “National Response Framework” January 2008, online [<http://www.fema.gov/pdf/emergency/nrf/nrf-core.pdf>], (accessed 2 December 2012). 11.

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